

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

TRIAL NOTICE

BY DIRECTION OF THE HONORABLE BRUCE D. BLACK the following cases are hereby scheduled for jury selection/trial on a trailing docket commencing at the date and time listed below. Counsel shall adhere to all deadlines set forth herein as well as the Instructions attached herewith.

JURY SELECTION/TRIAL DATE:

APRIL 2, 2001 at 9:00 a.m.

333 Lomas Blvd. N.W., Chama Courtroom—4th Floor, Albuquerque, NM
before the Honorable Bruce D. Black

MOTIONS IN LIMINE DEADLINE: March 19, 2001 (responses due 3-23-01);
PROPOSED JURY INSTRUCTIONS: March 26, 2001
CALENDAR CALL: March 28, 2001 at 4:00 p.m. (Firm trial settings will be given at this time. Most cases are resolved pretrial. Counsel in remaining cases should be prepared to go to trial on April 2, 2001).

ENCLOSURE:

(Please read it carefully):

“Preparation for Trial Before the Honorable Bruce D. Black” **[revised 8/00]** (includes guidelines for preparation of proposed jury instructions.)

OTHER INSTRUCTIONS:

1. Motions for continuance in criminal cases must satisfy the enumerated factors set forth in 18 U.S.C. §3161(H)(8)(A).
2. Unless already indicated herein, counsel representing non-English-speaking clients shall notify the court three (3) days before trial that an interpreter is needed.

Inquiries and notices of change of plea should be directed to Lincoln Sorrell, Courtroom Deputy to Judge Black, at **505-348-2270**.

ROBERT M. MARCH, Clerk



Robert M. March

Judge Black

*April 2, 2001 trial trailing docket***/9:00 a.m.*

Albuquerque-Chama Courtroom-4th Floor

CRIMINAL JURY TRIALS

CR 00-00486 BB USA v. Bill Niendorf-2

Attorney for Pltf: David N. Williams

Attorney for Deft: Michael V. Davis-2

Offenses Charged: Controlled Substance - Sell, Distribute, or Dispense

CR 00-00643 BB USA v. Susanna Cisco

Attorney for Pltf: Robert D. Kimball

Attorney for Deft: Roberto Albertorio

Offenses Charged: Manslaughter, Involuntary

CR 00-00726 BB USA v. Robert Corbin Padilla

Attorney for Pltf: Larry Gomez

Attorney for Deft: Joe M. Romero Jr.

Offenses Charged: Narcotics - Sell, Distribute, or Dispense

CR 00-00732 BB USA v. Carmelo Callejas-1 (custody)

Geovanny Torres-2 (fugitive)

Annette Silva-3 (fugitive)

Attorney for Pltf: Glynette R. Carson McNabb

Attorney for Deft: Marc H. Robert-1

Offenses Charged: Conspiracy to Possess Controlled Substance

Controlled Substance - Manufacture

Narcotics - Manufacture

Penalties for Firearms

CR 00-00957 BB USA v. Emad Al-Mosawi (custody)**

Attorney for Pltf: Sharon Kimball

Attorney for Deft: Robert R. Cooper

Offenses Charged: Controlled Substance - Sell, Distribute, or Dispense

Violent Crime/Drugs/Machine Gun

CR 00-01080 BB USA v. Daniel Commanche

Attorney for Pltf: F.G. Maxwell Carr-Howard

Attorney for Deft: Roger A. Finzel

Offenses Charged: Assault with Intent to Murder (Maritime)

Violent Crime/Drugs/Machine Gun

CR 00-01227 BB USA v. Aric M. Chopito (custody)

Attorney for Pltf: Miles Hanisee

Attorney for Deft: John V. Butcher

Offenses Charged: Sex with Person Less Than 12 Years Old

CR 00-01241 BB USA v. Jennifer Smith-Mirabal

Attorney for Pltf: Larry Gomez

Attorney for Deft: Susan Bronstein Dunleavy

Offenses Charged: Controlled Substance - Sell, Distribute, or Dispense

CR 00-01503 BB* USA v. Eduardo Acuna-Ramirez-1

Jesus Salazar-2 (custody)

Attorney for Pltf: Roberto D. Ortega

Attorney for Deft: Thomas B. Jameson-1

Edward O. Bustamante-2

Offenses Charged: Conspiracy to Distribute Controlled Substance
Controlled Substance - Sell, Distribute, or Dispense

CR 00-01530 BB USA v. Ramon Salgado (custody)

Attorney for Pltf: Rhonda P. Backinoff

Attorney for Deft: Martin Lopez III

Offenses Charged: Controlled Substance - Sell, Distribute, or Dispense

CR 00-01586 BB USA v. Robert Sidebothom (custody)

Attorney for Pltf: Roberto D. Ortega

Attorney for Deft: Robert J. Gorence

Offenses Charged: Controlled Substance - Sell, Distribute, or Dispense

CR 00-01589 BB USA v. Gus Bono-1 (custody)

Oscar Scull-2

Josue Achon-3

Attorney for Pltf: Erlinda V. Ocampo

Attorney for Deft: Roberto Albertorio-1

Dorothy C. Sanchez-2

Offenses Charged: Conspiracy to Distribute Narcotics
Narcotics - Manufacture
Narcotics - Sell, Distribute, or Dispense
Violent Crime/Drugs/Machine Gun

CR 01-00019 BB USA v. Ernest Sedillo (custody)

Attorney for Pltf: Larry Gomez

Attorney for Deft: J. Wayne Griego

Offenses Charged: Controlled Substance - Sell, Distribute, or Dispense

CR 01-00032 BB* USA v. Carlos Jesus Chairez (custody)

Attorney for Pltf: Jason Bowles

Attorney for Deft: Roger A. Finzel

Offenses Charged: Interference with Flight Crew Members and Attendants

CR 01-00042 BB USA v. Gavin Stead-1

Jed Shebala-2

Attorney for Pltf: Gregory James Fouratt

Attorney for Deft: John V. Butcher-1

Roberto Albertorio-2

Offenses Charged: Assault with Intent to Murder (Maritime)

CR 01-00094 BB USA v. Raymond Peter

Attorney for Pltf: Gregory James Fouratt

Attorney for Deft: Phillip P. Medrano

Offenses Charged: Sex Abuse of Minor/Ward 4 Years or More Young

CR 01-00118 BB USA v. George N. Fisher-1
Chester Coleman Jr.-2
Amy McDonald-3
Leslie Aaron Mobley-4

Attorney for Pltf: Steven C. Yarbrough

Attorney for Deft: David A. Streubel-1

David N. Greer-2

Billy R. Blackburn-3

Joe M. Romero Jr.-4

Offenses Charged: Archaeological Resource Protection Act
Conspiracy to Defraud the United States

CIVIL JURY TRIALS

CV 00-00238 BB/LFG Sondra Garcia v. Hobbs, City of, The

Attorney for Pltf: Bill J. Helwig, Mary Y.C. Han, Paul J. Kennedy

Attorney for Deft: Gregory L. Biehler, James W. Klipstine Jr.

***Spanish interpreter needed**

****Arabic interpreter needed**

*****This list does not necessarily reflect the order in which cases will be tried.**

A copy of this document was electronically transmitted or
mailed to counsel of record on February 2, 2001.

PREPARATION FOR TRIAL

BEFORE THE HONORABLE BRUCE D. BLACK

TRIAL COUNSEL, your compliance with the following is required:

1. Be on time for each court session. Trial engagements take precedence over any other business. If you have matters in other courtrooms, make other arrangements in advance for the handling of such matters.
2. Court time may not be used for marking exhibits. This must be done in advance of the court session.
3. Under no circumstances are you to attempt to communicate in any manner with any member of the jury prior to or during trial. Your clients and witnesses should also be so instructed.
4. Do not argue the case or discuss law in your opening statement. Your opening statement should present a concise summary of the ultimate facts to be proved. Do not describe in detail what particular witnesses will say.
5. Stand at the lectern when you question witnesses. (Counsel with physical disabilities may be excused from this requirement.)
6. If you intend to question a witness about a group of documents, avoid delay by having all the documents with you when you start the examination.
7. Commence your examination or cross-examination without unnecessary preliminary introductions.
8. When you object in the presence of the jury, make your objection short and to the point. “Speaking” objections will not be allowed. Cite the Rule of Evidence or common designation for your objection (*e.g.*, “hearsay”). Do not argue the objection. Do not make substantive motions (*e.g.*, a motion for a mistrial or directed verdict) in the presence of the jury. Such matters may be raised at sidebar or, by request, at the first recess without waiving any rights by such delayed motion.
9. Do not argue with the ruling of the Court in the presence of the jury and refrain from thanking the Court following a ruling.
10. Throughout these instructions, the term “trial” refers to commencement of the trailing docket. Therefore, all dates operate off of the initial jury selection date or date upon which the trailing docket begins. **Counsel must seek leave of the Court in the form of a written motion to extend any pretrial deadline.**
11. Where a submission deadline falls on a holiday, the deadline becomes the next working day after the holiday.

PERTAINING TO CIVIL CASES:

EXHIBITS

1. Exhibits shall be exchanged at the earliest possible date, but not later than **TWENTY (20)** calendar days before trial. Charts, plats, diagrams, etc., shall be marked and ready as to measurements, landmarks, and other identifying factual material. Exhibits shall be marked and identified (plaintiff's on yellow labels by numbers and defendant's on blue labels by letters, *e.g.*, A, B, C, ..., AA, AB, AC, ...) prior to trial.
2. **TEN (10)** working days before trial, you shall file with the Clerk a complete list of all objections to the exhibits offered. You should specify the Rule of Evidence or other legal authority upon which your objection is based. The Court will consider such objections, and most exhibits will be admitted, prior to trial.

ADMISSIBILITY

Motions in limine and all other issues of admissibility of evidence which can be anticipated shall be filed with the Clerk **TEN (10)** working days before trial.

WITNESSES

1. Witnesses shall be identified in accordance with the Pretrial Order, but in no event later than **TWENTY (20)** calendar days before trial.
2. A complete list of witnesses to be called at trial and **four (4)** copies shall be filed with the Clerk **FIVE (5)** working days before trial. The order of the witnesses is not binding but known witnesses not listed in accordance with this procedure will not be allowed to testify.
3. Each party will be responsible for securing the appearance of witnesses the party proposes to call.
4. Clients and witnesses are expected to be on time, and counsel should always have witnesses available to fill a full trial day (*i.e.*, 8:30 AM - 5:00 PM). Counsel who do not have a witness available may be penalized.
5. All expert reports must have been exchanged in advance in accordance with Rule 26(a)(2) of the Federal Rules of Civil Procedure. When calling an expert witness, it is the responsibility of counsel to establish his/her qualifications to express an opinion under Rule 702 after which counsel must move his/her acceptance by the Court as an expert. In that connection, counsel must inform the Court the particular field in which counsel offers the witness as an expert. As in other areas, cumulative expert testimony will not be permitted.

DEPOSITIONS

Consistent with the Federal Rules of Civil Procedure, depositions may also be introduced into evidence.

1. Notify opposing counsel and the Court of such intended use of depositions at least **TWENTY (20)** calendar days before trial. Opposing counsel shall file with the Clerk objections to any material at least **TEN (10)** working days before trial.

2. If a deposition is used in part, counsel shall mark the parts to be used for the Court and opposing counsel. Plaintiff will use a yellow marker and defendant a blue marker. This does not apply to cross-examination or rebuttal.

MEMORANDA OF LAW

Trial briefs outlining the basic legal theories, anticipated evidence in support of such theories, and the legal basis of any anticipated evidentiary disputes are encouraged and should be filed with the Clerk at least **FIVE (5)** working days before trial.

NON-JURY TRIALS - FINDINGS OF FACT

Findings of fact and conclusions of law shall be filed with the Clerk at least **TEN (10)** working days before the trailing docket is set to begin, with references to exhibits and proposed testimony. **Each party shall also submit the proposed findings and conclusions on a 3.5" WordPerfect diskette.**

PERTAINING TO CIVIL AND CRIMINAL CASES:

JURY TRIALS

1. Jury instructions shall be submitted to the Court in accordance with the section entitled **PREPARATION OF JURY INSTRUCTIONS** contained herein.
2. In the average case, each counsel will be permitted **ten (10) minutes** to voir dire the venire panel. **Do not argue the case or cite legal principles in your voir dire.** Requested voir dire shall be exchanged between counsel at least **FIVE (5)** working days before the case is scheduled for jury selection. If counsel cannot agree on proposed voir dire, any objections must be brought to the Court's attention at least **TWO (2)** working days prior to jury selection.

PERTAINING TO CRIMINAL CASES:

1. The Government will provide Defendant notice of potential Rule 404(b) or Rule 609(b) evidence not less than **FOURTEEN (14)** calendar days in advance of trial.
2. It will facilitate an orderly and efficient trial for counsel to exchange witness and exhibit lists **TWO (2)** working days prior to trial so that evidentiary problems can be anticipated and resolved correctly. In the event this requirement poses a danger to potential witnesses or for other good cause, the parties should approach the Court to seek relief from this requirement prior to the deadline.
3. Those exhibits which are not stipulated to shall be identified in sufficient detail to allow the Court to anticipate significant evidentiary problems.
4. Counsel will not get into possible areas of reversible error without prior Court approval, whether in opening or questioning witnesses. (*E.g.*, Comment on a defendant's silence, invocation of constitutional rights, Rules 404(b), 608 or 609 material, etc.)
5. Any exhibits not admitted at the beginning of trial may not be shown to the jury or testified to, regarding the contents of such exhibit, by the witness unless and until they are admitted.

PREPARATION OF JURY INSTRUCTIONS

*Please prepare your proposed Jury Instructions in accordance with these directions. File the proposed jury instructions with citations with the Clerk's office in accordance with D.N.M. LR-Cv 5.1 at least **ONE WEEK** before trial is scheduled.*

1. Parties shall meet and confer in advance of the deadline to agree on as many instructions as possible. Indicate those to which there are no objections.
2. Plaintiff shall submit a numbered original and one copy of plaintiff's proposed set of instructions. The instructions shall list authority at the bottom of each Instruction. (Fig. 1)
3. Defendant shall submit a numbered original and one copy of defendant's proposed set of instructions. The instructions shall list authority at the bottom of each Instruction. (Fig. 1)
4. Plaintiff shall submit a 3.5" WordPerfect diskette with a directory containing plaintiff's proposed set of instructions.
5. Defendant shall submit a 3.5" WordPerfect diskette with a directory containing defendant's proposed set of instructions.
6. Jury instructions without citations are no longer needed.
7. Submit **no more than one** instruction to a page.
8. Carefully PROOFREAD each instruction for errors in spelling, grammar, punctuation and citations, and for unintended deviations from pattern instructions used as sources.
9. Submit a cover sheet on all sets of instructions.
10. IN CIVIL MATTERS, Judge Black has provided the Clerk's Office a copy of pattern civil instructions. Attorneys need not include duplicates of these instructions among those they submit.
11. IN CRIMINAL MATTERS, Judge Black generally uses **Fifth Circuit Pattern Instructions** (1997 ed.) 1.03 - 1.06, 1.07 (alternative B), 1.08, 1.10, 1.18 - 1.20, 1.29, and 1.37. Attorneys need not include duplicates of these instructions among those they submit.

<p>(Pltf's) / (Def't's) / (Stipulated) INSTRUCTION NO. 1 Members of the Jury: You have now heard all of the evidence in the case and will soon hear the final arguments of the lawyers for the parties. It becomes my duty, therefore, to instruct you on the rules of law that you must follow and apply in arriving at your decision (Citation ...)</p>

2 W/citation